

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3414 of 2005



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1. The Union of India through the Secretary Central Board of Excise and Customs, Government of India, New Delhi
 2. The Additional Collector (Personal and Vigilance), Central Excise, Revenue Building, Patna
 3. The Deputy Secretary to the Govt. of India Ministry of Personal and Public Grievances and Pension, Department of Personal and Training
 4. Assistant Collector (Customs) also known as Assistant Commissioner Government of India, Motihari Customs (P) Division, Motihari
 5. Assistant Collector (Customs) also known as Asstt. Commissioner, Government of India, Mzaffarpur Customs (P) Preventive Division, Muzaffarpur

.... Petitioners

Versus

1. Smt.Budhiya Devi wife of Shri Prakash Mukhiya resident of Sara Chowk Ward No. 2, P.O.-and P.S.-Gopalganj, District-Gopalganj
2. Yogendra Sah, son of Shri Bhagwan Sah, resident of Banjariya Pataurya, P.O. and P.S. Motihari, District-East Champaran
3. Surendra Upadheyay, son of late Tarkeshwar Upadheyay, resident of village-B.B. Bankatwa, P.O.- & P.S.-Balmikinagar, District-West Champaran.
4. Purushottam Giri, son of Shri Yogendra Giri, resident of Nakshay Tola Near Gauri Shankar Middle School, P.O. & P.S. Motihari, Distt-East Champaran.
5. Harihari Rai, son of Shri Jay Govind Rai, resident of village-Alkdehi, P.O. & P.S.-Chhouradano. District-East Champaran
6. Ashok Kumar, son of late Nathuni Mahto, resident of Mohall-Belbanwa, P.O. & P.S.-Motihari, Distt.-East Champaran
7. Mahesh Kumari, son of late Shambhu Mahto, resident of Mohall-Belbanwa, P.O. & P.S.-Motihari, Distt.-East Champaran
8. Ram Chandra Mahto, son of late Shiv Charan Mahto, resident of village-Belbanwa, P.O. & P.S.-Motihari, Distt.-East Champaran.
9. Hriday Kumar, son of Shri Ashok Raut, resident of village-Naujivan Nagar, P.O. & P.S.-Bettiah,, Distt.-West Champaran (Bettiah)
10. Meena Devi, wife of Munna Raut, resident of village Coat Market Pani Tanki Beluper, P.S. and District Sitamarhi
11. Bedami Devi, wife of Banshi Rai, resident of village S.D.O. Court, Near T.V. Centre, P.O. & P.S. town thana, District-Siwan
12. Asha Devi, wife of Rajendra Ram, resident of Village-Jai Nagar Customs Office, P.O. Jai Nagar, District-Madhubani
13. Devendra Pandit, son of Jang Bahadur Pandit, resident of village-Rajkhand, P.S. & P.O. Gaoraul, District-Vaishali
14. Manoranjan Prasad Singh, son of Shri Ambika Pd. Singh, resident of village-Salempur, P.O. Sutihar, P.S. Derni, District-Saran at Chapra.
15. Umesh Paswan, son of Shri Mahadeo Paswan, resident of village-Bairakishun, P.S. Balra Esmike, P.S. Manihari, District-Muzaffarpur
16. Mantu Paswan, son of Shri Durga Paswan, resident of village-Rajkhand, P.O. & P.S. Goraul, Distt. Vaishali
17. Ram Chandra Paswan, son of Shri Shiv Narain Prasad, resident of

village & P.O. Niranjapur, P.S. & P.S. Mehandia, District-jehanabad.

18. Registrar, Central Administrative Tribunal, Patna Bench, Patna

.... ...Respondents

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**CORAM: HONOURABLE JUSTICE SMT. T. MEENA KUMARI
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

(Per: HONOURABLE JUSTICE SMT. T. MEENA KUMARI)

14. 20-09-2012

The present writ petition has been filed by the Union of India represented by Mr. Binay Kumar Pandey, learned counsel against the order dated 22.01.2004 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 41 of 1999.

A rejoinder to the counter affidavit has been filed by the counsel appearing on behalf of the petitioners enclosing a copy of the judgment dated 28th November, 2008 rendered by a Division Bench of this Court in C.W.J.C. No. 4612 of 2004 (Annexure-5).

Both counsel are agreed that that the present writ petition can be disposed of in terms of the aforesaid judgment dated 28.11.2008 passed in C.W.J.C. No. 4612 of 2004.

Accordingly, the present writ petition is disposed of in the same terms of the aforesaid judgment.

It is very fairly submitted by Mr. Gautam Bose, Sr. Counsel appearing on behalf of the respondents that respondent

nos. 3, 4, 7, 9, 13, 14 and 15 were appointed after 01.09.1993 i.e after coming into force the office memorandum and respondent no. 17 has already died.

Under the above circumstances, following the judgment dated 28.11.2008 rendered in C.W.J.C. No. 4612 of 2004, the order passed by the tribunal is set aside so far it relates to respondent nos. 3, 4, 7, 9, 13, 14 and 15 and so far as respondent no. 17 is concerned, the writ petition has become infructuous against him as he is already died, and the writ petition is dismissed as against rest of the respondents i.e respondent nos. 1,2,5, 6,8,10,11,12 and 16.

However, it is made clear that the department may consider the case of the above respondents whose cases are dismissed, if there is any change in the existing policy.

Accordingly, the writ petition is allowed in part so far as respondent nos. 3, 4, 7, 9, 13, 14 and 15 are concerned and dismissed so far against rest of the respondents except respondent no. 17 whose case has become infructuous.

(T. Meena Kumari, J.)

(Chakradhari Sharan Singh, J.)

Ashwini/-